



**COMMONWEALTH of VIRGINIA**  
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September 14, 2004

Dr. Daniel J. LaVista  
Executive Director  
State Council of Higher Education for Virginia  
Monroe Building  
101 North 14<sup>th</sup> Street  
Richmond, VA 23219

**Re: Proposed Emergency Regulations Governing  
Certification of Certain Institutions to Confer Degrees and Certificates  
(8 VAC 40-31-10 *et seq.*)**

Dear Dr. LaVista:

You ask whether the State Council of Higher Education for Virginia possesses the requisite statutory authority to promulgate the above proposed regulations on an emergency basis.

I have reviewed the above-referenced regulations. In my view, the Council has the authority to find that the adoption of these regulations on an emergency basis is necessitated by an emergency situation, as defined in section 2.2-4011.A, item (ii), which states that an "emergency situation" is a situation "in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment." Chapter 911 of the 2002 Acts of Assembly, cl. 7 provides: "That the State Council of Higher Education shall adopt regulations to implement the provisions of this act to be effective within 280 days of its enactment."

The foregoing represents my views and does not constitute an official opinion of the Attorney General. If you require additional assistance from me on this matter, please do not hesitate to contact me.

Sincerely,

Deborah Love Feild  
Senior Assistant Attorney General

